

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**Douglas & Margaret Kossler,
individually and as next
friends of L.K., a minor**

Plaintiff,

V.

Abbott Laboratories Inc., et al.,

Defendant.

Case No. 3:18-CV-1198

DOCUMENT FILED UNDER SEAL

PLAINTIFF'S MOTION TO APPROVE SETTLEMENT

Douglas and Margaret Kossler, as next friends of Plaintiff Logan Kossler (L.K.) (hereafter “Plaintiff”), a minor, (collectively “Movant”), by and through the undersigned counsel, hereby moves this Court to approve the settlement of this case as follows:

1. Movant brought this claim against Defendants Abbott Laboratories and AbbVie Inc. individually and on behalf of their minor son, the Plaintiff, for injuries and damages allegedly sustained as a result of Plaintiff's *in utero* exposure to Depakote. Defendants have defended and contested this claim and have denied any and all liability for the injuries and damages alleged.

2. The parties have agreed to compromise and settle this cause of action for the total consideration, which the parties have agreed to keep confidential, that is set forth in **Exhibit A** to this Motion.

3. On June 7th, 2018, this Court approved creation of, and assumed jurisdiction over, the Zoll Qualified Settlement Fund (“QSF”), the fund into which Defendants have deposited or shall deposit the settlement consideration, and from which disbursement by the QSF Administrator is being requested by this Motion.

4. On behalf of Plaintiff, Movant has been fully informed by counsel with respect to the liability facts, the disputed nature of the causes of action, the nature and extent of the damages claimed, attorneys' fees and expenses, the settlement structure and plan for distribution of the settlement proceeds, and any potential lien consequences of settlement. Movant believes that this settlement is fair, reasonable and in the best interests of Plaintiff. Movant has signed a release on behalf of Plaintiff and understands that the Defendants will be forever released from any and all liability, derivative or otherwise, in connection with any and all of the claims and damages alleged.

5. On June 7th, 2018, this Court appointed Dennis Sheehan as Guardian ad Litem to represent the interests of Plaintiff. Mr. Sheehan has reviewed the details of this case, and the terms of settlement, and has spoken with Movant and discussed the details of this settlement. As set forth in his report, attached as **Exhibit B** to this Motion, Mr. Sheehan submits that the settlement is reasonable, fair, just, and in the best interests of Plaintiff and should be approved by the Court.

6. Movant employed the undersigned counsel to pursue this claim on behalf of Plaintiff pursuant to a contract which provides for the payment of attorneys' fees and expenses as set forth in **Exhibit A** to this Motion. A general expense holdback amount is included in **Exhibit A**, and once any final additional general expense amounts have been calculated, if any, such additional general expense amounts will be reimbursed to the attorneys from the holdback, and the balance will be distributed on behalf of Plaintiff as indicated on **Exhibit A**.

7. Movant requests that the Court approve payment of these fees and expenses in connection with its approval of this settlement. Movant also requests that the Court approve the Guardian ad Litem fees and the settlement-related expenses set forth in **Exhibit A** to this Motion.

8. A portion of the settlement award may be subject to liens identified in **Exhibit A**, and Movant requests that the Court approve disbursement of those lien amounts, if any, to the lien holder(s). If a lien is not final, a portion of the settlement will be held back to satisfy those liens as indicated on **Exhibit A**. Once the lien(s) is/are final, the final amount will be paid, and the balance will be distributed on behalf of Plaintiff as indicated on **Exhibit A**.

9. The settlement proceeds allocated to Plaintiff will be distributed and paid as indicated on **Exhibit A** and in paragraph 8 of the Court's Order.

10. Therefore, Movant moves this Court to approve the settlement. Movant requests that the Court approve disbursement of the settlement funds specifically as set forth in **Exhibit A** to this Motion. This Exhibit details the total consideration as well as the proposed plan for disbursement of the settlement proceeds, including the payment of settlement funds for the benefit of Plaintiff, applicable expenses and attorneys' fees, the fees of the Guardian ad Litem, any other settlement-related expenses, as well as any applicable liens for the provision of medical services that are being satisfied out of the settlement proceeds.

Based on the foregoing, Movant respectfully requests that this Court approve the settlement and issue the attached proposed order, and any such further orders the Court deems appropriate.

DATED February 8th, 2019.

Respectfully Submitted,

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was forwarded in compliance with the Federal Rules of Civil Procedure on this, the 8th day of June, 2018 to all counsel of record.
